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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/475,269	12/30/1999	AYMAN BEDAIR	03384-0364	6151

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EXAMINER	
HARPER, KEVIN C	

ART UNIT	PAPER NUMBER
2616	

DATE MAILED: 05/17/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/475,269	BEDAIR ET AL.	
	Examiner	Art Unit	
	Kevin C. Harper	2616	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *03 March 2006*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-15 and 20-33* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-14 and 20-32* is/are rejected.

7)☒ Claim(s) *15 and 33* is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☒ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

Response to Arguments

In view of the appeal brief filed on March 3, 2006, PROSECUTION IS HEREBY REOPENED. A new ground of rejection set forth below.

To avoid abandonment of the application, appellant must exercise one of the following two options:

(1) file a reply under 37 CFR 1.111 (if this Office action is non-final) or a reply under 37 CFR 1.113 (if this Office action is final); or,

(2) initiate a new appeal by filing a notice of appeal under 37 CFR 41.31 followed by an appeal brief under 37 CFR 41.37. The previously paid notice of appeal fee and appeal brief fee can be applied to the new appeal. If, however, the appeal fees set forth in 37 CFR 41.20 have been increased since they were previously paid, then appellant must pay the difference between the increased fees and the amount previously paid.

A Supervisory Patent Examiner (SPE) has approved of reopening prosecution by signing below.

Applicant's arguments filed March 3, 2006 have been fully considered and are persuasive. Therefore, the rejection has been withdrawn. However, upon further consideration, a new ground(s) of rejection is made in view of Duault et al. and Ma et al.

The indicated allowability of claim 2 is withdrawn in view of the newly discovered reference(s) to Thorson. Rejections based on the newly cited reference(s) follow.

Claim Rejections - 35 USC § 102

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 1 and 20 are rejected under 35 U.S.C. 102(e) as being anticipated by Duault et al. (US 5,912,894).

1. Regarding claims 1 and 20, Duault discloses a method of dynamically adapting a PBX network (fig. 1) to maintain a Quality of Service level in the network (col. 4, lines 8-26). The method comprises the steps of identifying and measuring a parameter (figs. 5, 7 and 8; col. 4, lines 63-65; col. 6, lines 15-18; col. 5, lines 43-45 and 54-56) associated with a data packet transported across the network (col. 3, lines 49-50; fig. 1, item 210; note: the measured voice activity is associated with the speech to be transmitted in data packets), and enabling optimization of the network bandwidth when the measured parameter is different from a predetermined value (col. 6, lines 20-29; note: the bandwidth is adjusted to 13 Kbps or 7 Kbps when voice activity is greater than a predetermined value of zero). Further regarding claim 20, Duault discloses an apparatus (fig. 1) comprising a parameter identifying mechanism and a parameter measuring device (figs. 4-5; col. 5, lines 43-45), and an optimization enabling device (col. 7, lines 13-15).

Claim Rejections - 35 USC § 103

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 1 and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ma et al. (US 5,953,338) in view of Daniel et al. (US 5,726,985).

2. Regarding claims 1 and 20, Ma discloses a method of adapting a network to maintain a Quality of Service level in the network (col. 9, lines 4-8). The method comprises the steps of identifying and measuring a parameter (fig. 9A, "Check the Utilization Level of the VP Group") associated with a data packet transported across the network (figs. 1A and 1B; note: the channel utilization is associated with the transmitted data packets; col. 7, lines 45-56), and enabling optimization of the network bandwidth when the measured parameter differs from a predetermined value (col. 8, lines 19-23 and 26-32). Further regarding claim 20, Ma discloses an apparatus (fig. 1A) comprising a parameter identifying mechanism and a parameter measuring device (fig 1A, items 150 and 145), and an optimization enabling device (items 140 and 145).

3. However, Ma does not disclose adapting a PBX network. Daniel discloses a PBX used in a packet network (fig. 1). Therefore, it would have been obvious to one skilled in the art at the time the invention was made to have a PBX in the invention of Ma in order to provide packet connectivity among telephone users (Daniel, col. 10, lines 40-47 and 49-54; col. 1, lines 49-52).

Claim 2 is rejected under 35 U.S.C. 103(a) as being unpatentable over Ma et al. (US 5,953,338) in view of Daniel et al. (US 5,726,985) and Thorson (US 4,440,986).

4. Ma in view of Daniel discloses a method of (and apparatus for) adapting a PBX network as noted in the rejection of claims 1 and 20 above. However, Ma in view of Daniel does not disclose first and second PBX cabinets. Thorson discloses a cabinet for a PBX (col. 4, lines 53-60). Therefore, it would have been obvious to one skilled in the art at the time the invention was made to have a cabinet for a PBX in the invention of Ma in view of Daniel in order to provide a physical housing for the components of a PBX as is known in the art.

5. Still further, Ma does not specifically disclose a register for storing a measured parameter. Daniel discloses storing a parameter in a register (col. 22, lines 13-20). Therefore, it would have been obvious to one skilled in the art at the time the invention was made to store a measured parameter in a register in the invention of Ma in order to use the parameter in a subsequent calculation as is known in the art.

Claims 3, 6-8, 21 and 24-26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ma in view of Daniel, as applied to claim 1 or 20 above, in further view of Yamato et al. (US 5,694,390).

6. Regarding claims 3 and 21, Ma in view of Daniel does not disclose measuring a sequence number associate with a packet. Yamato discloses measuring a sequence number of successive packets (col. 25, lines 62-66). The sequence is associated with stored data packets (col. 8, line 63 through col. 9, line 4). Therefore, it would have been obvious to one skilled in the art at the time the invention was made to measure a sequence number in the invention of Ma in view of Daniel in order to determine a utilization level in a network (Yamato, col. 26, lines 4-8).

7. Regarding claims 6 and 24, Ma does not specifically disclose a register for storing a measured parameter. Daniel discloses storing a parameter in a register (col. 22, lines 13-20). Therefore, it would have been obvious to one skilled in the art at the time the invention was made to store a measured parameter in a register in the invention of Ma in order to use the parameter in a subsequent calculation as is known in the art.

8. Regarding claims 7-8 and 25-26, the limitations of these claims have been addressed in the rejection of claim 3 or 21 above.

Claims 4-5 and 22-23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ma in view of Daniel, as applied to claim 1 or 20 above, in further view of Campbell et al. (US 2003/0140159).

9. Regarding claims 4-5 and 22-23, Ma in view of Daniel does not disclose measuring differences in packet arrival times for round trip packets. Campbell discloses measuring difference in arrival times for round trip packets (para. 136 and 139; para. 130 and para. 132, last four lines). Therefore, it would have been obvious to one skilled in the art at the time the invention was made to measure packet arrival times for round trip packets in the invention of Ma in view of Daniel in order to detect a utilization level within a network (Campbell, para. 136).

Claims 9-13 and 27-31 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ma in view of Daniel and Yamato, as applied to claim 8 or 26 above, in further view of Geagan, III et al. (US 6,263,371).

10. Regarding claims 9-10 and 27-28, Ma in view of Daniel and Yamato does not disclose incrementing a packet counter as claimed. Geagan discloses incrementing a counter by one to keep track of the sequence of incoming packets and incrementing a counter by more than one if a packet is lost (abstract; fig. 3 and fig. 6, steps 78 and 84-90). Therefore, it would have been obvious to one skilled in the art at the time the invention was made to keep track of a sequence of packets using a counter in the invention of Ma in view of Daniel and Yamato in order to properly convey the real-time information within received packets (Geagan, col. 2, lines 38-42).

11. Regarding claims 11-13 and 29-31, in Ma the optimization is static by limiting the number of channels on a network and the optimization is adaptive (fig. 8, "Reject Bandwidth Request; fig. 9A, "Update the Total Bandwidth Allocation and Available Bandwidth", "Take

Measures to Enforce the Service Contract Agreements" and "Release a Block of 'Borrowed' Bandwidth to the ATM interface").

Claims 14 and 32 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ma in view of Daniel, Yamato and Geagan, as applied to claim 14 or 29 above, in further view of Thorson (US 4,440,986).

12. Regarding claims 14 and 32, the combination of references does not disclose a PBX cabinet having cards. Thorson discloses a cabinet for a PBX having cards (col. 4, lines 53-60). Therefore, it would have been obvious to one skilled in the art at the time the invention was made to have a cabinet for a PBX in the invention of Ma in view of Daniel in order to provide a physical housing for the components of a PBX as is known in the art.

Allowable Subject Matter

13. Claims 15 and 33 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kevin Harper whose telephone number is 571-272-3166. The examiner can normally be reached weekdays from 11:00 AM to 7:00 PM ET.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Doris To, can be reached at 571-272-7629. The centralized fax number for the Patent Office is 571-273-8300. For non-official communications, the examiner's personal fax number

is 571-273-3166 and the examiner's e-mail address is kevin.harper@uspto.gov. Previous art units 2661-2668 have merged to form a new art unit 2616. A similar restructuring has taken place for all other art units in TC 2600.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications associated with a customer number is available through Private PAIR only. For more information about the PAIR system, see portal.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Kevin C. Harper

May 14, 2006

DORIS H. TO
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2600